

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2018 APR -4 PM 4:23

CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY g

UNITED STATES OF AMERICA,
Plaintiff,

v.

REAL PROPERTY LOCATED AT
219 CANYON TURN TRAIL, LAKEWAY,
TRAVIS COUNTY, TEXAS,
Defendant.

§
§
§
§
§
§
§
§

Civil Action No.

A18CV0285RP

VERIFIED COMPLAINT FOR FORFEITURE

NOW COMES Plaintiff United States of America, by and through the U.S. Attorney for the Western District of Texas, pursuant to Rule G, Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure, and respectfully states as follows:

I. NATURE OF THE ACTION

1. This action is brought by the United States seeking forfeiture to the United States of the following property:

Real Property Located at **219 Canyon Turn Trail, Lakeway, Travis County, Texas** including any and all buildings, appurtenances, and improvements thereon and any and all surface rights, title, and interests, if any, and more fully described as:

Lot 19, Block A, of Rough Hollow Section 7 (Replat of Lots 209-224, Block C and Lots 256-261, Block E of Rough Hollow Section 7A, and Lots 225-242, Block C and Lots 243-255, Block E of Rough Hollow Section 7B), a Subdivision in Travis County, Texas, according to the Map or Plat recorded under Document No. 200600345, in the Plat Records of Travis County, Texas.

(hereinafter referred to as "Defendant Property").

II. STATUTORY BASIS FOR FORFEITURE

2. This is a civil forfeiture action *in rem* brought against the Defendant Property for violation of 18 U.S.C. § 1343 (Wire Fraud) and subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C), which states:

§ 981. Civil Forfeiture

(a)(1) The following property is subject to forfeiture to the United States:

* * *

(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of . . . any offense constituting "specified unlawful activity" (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.¹

III. JURISDICTION AND VENUE

3. Under 28 U.S.C. § 1345, the Court has jurisdiction over an action commenced by the United States, and under 28 U.S.C. § 1355(a), the Court has jurisdiction over an action for forfeiture. This Court has *in rem* jurisdiction over the Defendant Property under 28 U.S.C. §§ 1355(b) and 1395.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1) because the acts or omissions giving rise to the forfeiture occurred in this District. *See also* 28 U.S.C. § 1395(b).

IV. FACTS IN SUPPORT OF FORFEITURE

A. Overview of Investigation.

5. In 2018, the Federal Bureau of Investigation (FBI) and the Internal Revenue Service, Criminal Investigation (IRS-CI) began investigating Tamra M. (Creighton) Villarreal

¹ Section 1956(c)(7) defines "specified unlawful activity" to mean "any act or activity constituting an offense listed in section 1961(1)...." Section 1961(1) defines "racketeering activity" to include "section 1343 (relating to wire fraud)."

(“Villarreal”). Villarreal is a Certified Public Accountant (CPA). Between 2006 and 2017, Villarreal served as the Chief Financial Officer (“CFO”) of a group of privately held companies with headquarters in Austin.

6. The main operational entity for the group of privately held companies (“R.E.L.”) receives income in the form of management fees from automobile dealerships, and it pays employees’ salaries and bonuses. Another entity (“RII”) owns an out-of-state automobile dealership. And a third entity (“RFLP”) is a limited partnership that owns the land on which one of the car dealerships operates. RFLP receives rent payments from that dealership and distributes funds to the limited partners on occasion. The only authorized disbursements from the RFLP bank account are for these payments to limited partners. Villarreal is not a partner of RFLP.

B. The Scheme and Interstate Wire Communications.

7. Beginning no later than 2009 and continuing until in or about January 2018 (“the Relevant Period”), Villarreal repeatedly transmitted wire communications in interstate commerce in furtherance of a scheme to defraud her employer, using false accounting entries to conceal her embezzlement of millions of dollars.

8. As the CFO who worked in Austin, Texas, Villarreal was responsible for the compilation of the companies’ financial information, payroll, and bonus calculations. Villarreal supplied those compilations via email to outside accountants (who are located in the State of New Mexico) so that the outside accountants could prepare federal tax returns and periodic financial reviews.

9. As early as 2009, Villarreal began fraudulently, and without authorization, wiring monies directly out of the privately held companies’ bank accounts to her and her spouse’s joint

bank account for their personal use and benefit. In order to conceal the scheme, Villarreal manipulated the companies' books and records with false journal entries, falsely recording payments of her personal expenses as payments to vendors for company operating expenses. She subsequently emailed these falsified books and records to the accountants located in New Mexico.

C. The Purchase of the Defendant Property.

10. Title 18, United States Code, Section 1343, makes it a crime for anyone to use interstate wire communications in carrying out a scheme to defraud. 5TH CIR. CRIM. JURY INSTR. § 2.57 (2015). Villarreal employed the fraud scheme to enrich herself with money and property belonging to her employer, including her fraudulent purchase of her current residence, which is the Defendant Property.

11. Using account analysis, financial record review, and direct tracing, federal agents have determined that Villarreal, as part of her fraud scheme, used money from her employers' Frost Bank accounts without authorization to purchase an opulent 6,941 square-foot residence (*i.e.* the Defendant Property) for cash by wiring funds as follows:

Date	Amount	Payee	Source of Funds
12/18/2013	\$25,000.00	Independence Title Co.	RII, Acct #xxx3662
12/19/2013	\$2,778,347.29	Independence Title Co.	RFLP, Acct #xxx7056

12. On December 20, 2013, a Warranty Deed was filed in the Official Public Records for Travis County, Texas conveying the Defendant Property to Villarreal and her spouse.

13. In conducting witness interviews, the federal agents determined that Villarreal did not have authority, or permission, to use business funds in the bank accounts of RFLP or RII for her personal use and benefit. In fact, the only authorized disbursements from the RFLP bank

account should have been dividend payments to the RFLP partners. As such, the purchase of the Defendant Property represents proceeds traceable to the violation of 18 U.S.C. § 1343, a specified unlawful activity. Thus, the Defendant Property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

V. PRAYER

14. Based on the foregoing facts and circumstances, the United States submits that a reasonable belief exists to believe that the Defendant Property is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) as the Defendant Property constitutes, or is derived from proceeds traceable to the knowing violation of 18 U.S.C. § 1343.

ACCORDINGLY, Plaintiff United States of America prays that due process issue to enforce the forfeiture of the Defendant Property, that due notice, pursuant to Supplemental Rule G(4), be given to all interested parties to appear and show cause why forfeiture should not be decreed,² that a warrant for an arrest in rem be ordered, that the Defendant Property be forfeited to the United States of America, that the Defendant Property be disposed of in accordance with the law, and for any such further relief as this Honorable Court deems just and proper.

² Appendix A, Notice of Complaint for Forfeiture, which is being filed along with this complaint, will be sent to those known to the United States to have an interest in the Defendant Property.

Respectfully submitted,

JOHN F. BASH
UNITED STATES ATTORNEY

By:

A handwritten signature in cursive script, appearing to read "Daniel M. Castillo", written over a horizontal line.

DANIEL M. CASTILLO
Assistant United States Attorney
Texas State Bar No. 00793481
816 Congress Avenue, Suite 1000
Austin, Texas 78701
Tel: (512) 916-5858
Fax: (512) 916-5854

ATTORNEYS FOR PLAINTIFF,
UNITED STATES OF AMERICA

VERIFICATION

I, MICHAEL J. FERNALD, declare as follows:

1. I am a Special Agent with the Department of Treasury, IRS, Criminal Investigation. I am assigned to the Austin Resident Office and am the investigator responsible for the accuracy of the information provided in this litigation.

2. I have read the above Verified Complaint for Forfeiture and know the contents thereof. The information contained in the Verified Complaint for Forfeiture has been furnished by official government sources, and based upon information and belief, the allegations contained in the Verified Complaint for Forfeiture are true.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on the 4th day of April, 2018.

A handwritten signature in black ink, appearing to read 'M. J. Fernald', written over a horizontal line.

MICHAEL J. FERNALD, Special Agent
IRS, Criminal Investigation
Austin Resident Office

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

United States Attorney's Office

Daniel M. Castillo, AUSA

816 Congress Ave., Suite 1000, Austin, TX 78701, (512) 916-5858

DEFENDANTS

Real Property Located at 219 Canyon Turn Trail, Lakeway, Travis County, Texas

County of Residence of First Listed Defendant Travis County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

A18CV0285RP**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609				

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

18 U.S.C. Sec. 1343

Brief description of cause:

Wire Fraud / Proceeds

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

04/04/2018

FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

Daniel M. Castillo

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**UNITED STATES OF AMERICA,
Plaintiff,**

v.

**REAL PROPERTY LOCATED AT
219 CANYON TURN TRAIL, LAKEWAY,
TRAVIS COUNTY, TEXAS,
Defendant.**

§
§
§
§
§
§
§
§
§

Civil Action No.

A18CV0285 RP

NOTICE OF COMPLAINT FOR FORFEITURE

1. On April 4, 2018, a Verified Complaint for Forfeiture was filed in this Court by the United States Attorney for the Western District of Texas, against the below-described property for violation of 18 U.S.C. § 1343, and subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C), namely:

Real Property Located at **219 Canyon Turn Trail, Lakeway, Travis County, Texas** including any and all buildings, appurtenances, and improvements thereon and any and all surface rights, title, and interests, if any, and more fully described as:

Lot 19, Block A, of Rough Hollow Section 7 (Replat of Lots 209-224, Block C and Lots 256-261, Block E of Rough Hollow Section 7A, and Lots 225-242, Block C and Lots 243-255, Block E of Rough Hollow Section 7B), a Subdivision in Travis County, Texas, according to the Map or Plat recorded under Document No. 200600345, in the Plat Records of Travis County, Texas.

(hereinafter the "Defendant Property").

2. Pursuant to Supplemental Rule G(4)(b), notice to any person who reasonably appears to be a potential claimant shall be by direct notice. Accompanying this notice is the Verified Complaint for Forfeiture which has been filed in this cause and which describes the Defendant Property. Pursuant to Supplemental Rule G(4)(b), any person claiming an interest in

the Defendant Property who has received direct notice of this forfeiture action must file a Claim, in compliance with Rule G(5)(a), with the court **within 35 days after the notice was sent, if delivered by mail** (if mailed, the date sent is provided below), **or within 35 days of the date of delivery, if notice was personally served.** An Answer or motion under Rule 12 of the Federal Rules of Civil Procedure must then be filed within **21 days** of the Claim being filed.

The Claim and Answer must be filed with the Clerk of the Court, 501 W. Fifth Street, Austin, Texas 78701, and copies of each must be served upon Assistant United States Attorney Daniel M. Castillo, 816 Congress Avenue, Suite 1000, Austin, Texas 78701, or default and forfeiture will be ordered. *See* 18 U.S.C. § 983(a)(4)(A) and Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claim and Asset Forfeiture Actions.

Failure to follow the requirements set forth above will result in a judgment by default taken against you for the relief demanded in the complaint.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

REAL PROPERTY LOCATED AT
219 CANYON TURN TRAIL, LAKEWAY,
TRAVIS COUNTY, TEXAS,
Defendant.

§
§
§
§
§
§
§
§
§

Civil Action No.

A18CV0285RP

**ORDER TO POST NOTICE OF COMPLAINT
FOR FORFEITURE OF DEFENDANT REAL PROPERTY**

WHEREAS a Verified Complaint for Forfeiture was filed on April 4, 2018, against the following property:

Real Property Located at **219 Canyon Turn Trail, Lakeway, Travis County, Texas** including any and all buildings, appurtenances, and improvements thereon and any and all surface rights, title, and interests, if any, and more fully described as:

Lot 19, Block A, of Rough Hollow Section 7 (Replat of Lots 209-224, Block C and Lots 256-261, Block E of Rough Hollow Section 7A, and Lots 225-242, Block C and Lots 243-255, Block E of Rough Hollow Section 7B), a Subdivision in Travis County, Texas, according to the Map or Plat recorded under Document No. 200600345, in the Plat Records of Travis County, Texas.

(hereinafter "Defendant Property"), which is also more fully described in the Verified Complaint for Forfeiture, alleging that the Defendant Property is subject to forfeiture to the United States of America pursuant to 18 U.S.C. § 981(a)(1)(C) for violation of 18 U.S.C. § 1343; IT IS THEREFORE

ORDERED that the Department of Treasury, IRS for the Western District of Texas, or other authorized law enforcement officer or any other person or organization authorized by law,

be commanded to post the Notice of Complaint for Forfeiture in accordance with Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Fed. R. Civ. P., and 18 U.S.C. § 985(c)(1)(B), by affixing a copy of the Notice of Complaint for Forfeiture in this action, in a conspicuous place upon the premises and, if applicable, by leaving a copy of the Notice of Complaint for Forfeiture and accompanying documents with the occupant of the premises, if any, until further order of the Court, and to make the return as provided by law and said Order has been executed.

SIGNED this _____ day of _____, 2018.

UNITED STATES DISTRICT JUDGE